

Senate Bill No. 6

Passed the Senate February 19, 2009

Secretary of the Senate

Passed the Assembly February 19, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 13, 334, 337, 2150, 2151, 2152, 2154, 8025, 8062, 8068, 8081, 8121, 8124, 8142, 8148, 8150, 8300, 8550, 8600, 8605, 8805, 8807, 10705, 10706, 12108, 13102, 13105, 13110, 13206, 13207, 13208, 13230, 13300, 13302, 13305, 15451, 15452, 15670, 15671, 19300, and 19301 of, to amend Part 1 of Division 7 of, to add Sections 300.5, 325, 332.5, 338.5, 359.5, 8002.5, 8005, 8141.5, 8606, 9083.5, 9084.5, 13109.5, and 14105.1 to, to add Chapter 0.5 (commencing with Section 6000) to Part 1 of Division 6 of, to amend and renumber Section 6000 of, to repeal and add Section 8125 of, to repeal Sections 8802 and 8806 of, the Elections Code, and to amend Section 88001 of the Government Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 6, Maldonado. Elections: primaries.

Existing provisions of the California Constitution require the Legislature to provide for primary elections for partisan offices, including an open presidential primary election, as specified. The California Constitution also provides that all judicial, school, county, and city offices are nonpartisan offices, and a political party or party central committee is prohibited from endorsing, supporting, or opposing a candidate for these offices.

This measure would permit a voter, at the time of registration, to choose whether or not to disclose a party preference. This measure would also provide that a voter may vote for the candidate of his or her choosing in the primary election, regardless of his or her disclosure or non-disclosure of party preference.

This measure would provide for a “voter-nominated primary election” for each state elective office and congressional office in California, in which a voter may vote at the primary election for any candidate for congressional or state elective office without regard to the political party preference disclosed by either the candidate or the voter. The 2 candidates receiving the 2 highest vote totals for each office at a primary election, regardless of party preference, would then compete for the office at the ensuing general election.

The measure would further provide that a candidate for a congressional or state elective office generally may choose whether to have his or her political party preference indicated upon the ballot for that office in the manner to be provided by statute.

This measure would not change existing law as it relates to presidential primaries.

Because this bill would change the duties of local elections officials, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would provide that it would become operative only if SCA 4 is approved by the voters.

The people of the State of California do enact as follows:

SECTION 1. Section 13 of the Elections Code is amended to read:

13. (a) No person shall be considered a legally qualified candidate for any office, for party nomination for a partisan office, or for nomination to participate in the general election for any voter-nominated office, under the laws of this state unless that person has filed a declaration of candidacy or statement of write-in candidacy with the proper official for the particular election or primary, or is entitled to have his or her name placed on a general election ballot by reason of having been nominated at a primary election, or having been selected to fill a vacancy on the general election ballot as provided in Section 8806, or having been selected as an independent candidate pursuant to Section 8304.

(b) Nothing in this section shall be construed as preventing or prohibiting any qualified voter of this state from casting a ballot for any person by writing the name of that person on the ballot, or from having that ballot counted or tabulated, nor shall any provision of this section be construed as preventing or prohibiting any person from standing or campaigning for any elective office

by means of a “write-in” campaign. However, nothing in this section shall be construed as an exception to the requirements of Section 15341.

(c) It is the intent of the Legislature, in enacting this section, to enable the Federal Communications Commission to determine who is a “legally qualified candidate” in this state for the purposes of administering Section 315 of Title 47 of the United States Code.

SEC. 2. Section 300.5 is added to the Elections Code, to read:

300.5. “Affiliated with a political party” as used in reference to a voter or to a candidate for a voter-nominated office means the party preference that the voter or candidate has disclosed on his or her affidavit of registration.

SEC. 3. Section 325 is added to the Elections Code, to read:

325. “Independent status” means a voter’s indication of “No Party Preference” as provided in Section 2151 and Section 2154.

SEC. 4. Section 332.5 is added to the Elections Code, to read:

332.5. “Nominate” means the selection, at a state-conducted primary election, of candidates who are entitled by law to participate in the general election for that office, but does not mean any other lawful mechanism that a political party may adopt for the purposes of choosing the candidate who is preferred by the party for a nonpartisan or voter nominated office.

SEC. 5. Section 334 of the Elections Code is amended to read:

334. “Nonpartisan office” means an office, except for a voter-nominated office, for which no party may nominate a candidate. Judicial, school, county, and municipal offices are nonpartisan offices.

SEC. 6. Section 337 of the Elections Code is amended to read:

337. “Partisan office” or “party nominated office” means any of the following offices:

(a) President of the United States, Vice President of the United States, and the delegates therefor.

(b) Elected member of a party committee.

SEC. 7. Section 359.5 is added to the Elections Code, to read:

359.5. (a) “Voter-nominated office” means a congressional or state elective office for which any candidate may choose to have his or her party preference or lack of party preference indicated upon the ballot. A political party or party central committee shall not nominate a candidate at a state-conducted primary election for a voter-nominated office. The primary conducted for a

voter-nominated office does not serve to determine the nominees of a political party but serves to winnow the number of candidates to a final list of two for the general election. The following offices are voter-nominated offices:

- (1) Governor.
- (2) Lieutenant Governor.
- (3) Secretary of State.
- (4) State Treasurer.
- (5) Controller.
- (6) State Insurance Commissioner.
- (7) Member of the Board of Equalization.
- (8) Attorney General.
- (9) State Senator.
- (10) Member of the Assembly.
- (11) United States Senator.
- (12) Member of the United States House of Representatives.

(b) This section does not prohibit a political party or party central committee from endorsing, supporting, or opposing a candidate for a candidate listed in subdivision (a).

SEC. 8. Section 2150 of the Elections Code is amended to read:

2150. (a) The affidavit of registration shall show:

- (1) The facts necessary to establish the affiant as an elector.
- (2) The affiant's name at length, including his or her given name, and a middle name or initial, or if the initial of the given name is customarily used, then the initial and middle name. The affiant's given name may be preceded, at affiant's option, by the designation of Miss, Ms., Mrs., or Mr. A person shall not be denied the right to register because of his or her failure to mark a prefix to the given name and shall be so advised on the voter registration card. This subdivision shall not be construed as requiring the printing of prefixes on an affidavit of registration.
- (3) The affiant's place of residence, residence telephone number, if furnished, and e-mail address, if furnished. No person shall be denied the right to register because of his or her failure to furnish a telephone number or e-mail address, and shall be so advised on the voter registration card.
- (4) The affiant's mailing address, if different from the place of residence.
- (5) The affiant's date of birth to establish that he or she will be at least 18 years of age on or before the date of the next election.

(6) The state or country of the affiant's birth.

(7) (A) In the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number.

(B) In the case of any other applicant, other than an applicant to whom subparagraph (C) applies, the last four digits of the applicant's social security number.

(C) If an applicant for voter registration has not been issued a current and valid driver's license or a social security number, the state shall assign the applicant a number that will serve to identify the applicant for voter registration purposes. To the extent that the state has a computerized list in effect under this subdivision and the list assigns unique identifying numbers to registrants, the number assigned under this subparagraph shall be the unique identifying number assigned under the list.

(8) The affiant's political party preference.

(9) That the affiant is currently not imprisoned or on parole for the conviction of a felony.

(10) A prior registration portion indicating whether the affiant has been registered at another address, under another name, or as preferring another party. If the affiant has been so registered, he or she shall give an additional statement giving that address, name, or party.

(b) The affiant shall certify the content of the affidavit as to its truth and correctness, under penalty of perjury, with the signature of his or her name and the date of signing. If the affiant is unable to write he or she shall sign with a mark or cross.

(c) The affidavit of registration shall also contain a space that would enable the affiant to state his or her ethnicity or race, or both. An affiant may not be denied the ability to register because he or she declines to state his or her ethnicity or race.

(d) If any person, including a deputy registrar, assists the affiant in completing the affidavit, that person shall sign and date the affidavit below the signature of the affiant.

(e) The affidavit of registration shall also contain a space to permit the affiant to apply for permanent vote by mail status.

(f) The Secretary of State may continue to supply existing affidavits of registration to county elections officials prior to printing new or revised forms that reflect the changes made to this section by the act that added this subdivision.

SEC. 9. Section 2151 of the Elections Code is amended to read:

2151. (a) At the time of registering and of transferring registration, each elector may disclose the name of the political party that he or she prefers. The name of that political party shall be stated in the affidavit of registration and the index.

(b) (1) The voter registration card shall inform the affiant that any elector may decline to state a political party reference, but no person shall be entitled to vote the ballot of any political party at any primary election for President of the United States or for a party committee unless he or she has disclosed the name of the party that he or she prefers or unless he or she has declined to disclose a party preference and the political party, by party rule duly noticed to the Secretary of State, authorizes a person who has declined to disclose a party preference to vote the ballot of that political party. The voter registration card shall further inform the affiant that any registered voter may vote for any candidate at a primary election for state elective office or congressional office, regardless of the disclosed party preference of the registrant or the candidate seeking that office or the refusal of the registrant or candidate to disclose a party preference. This notice shall be printed in 12 point Times New Roman font.

(2) The voter registration card shall include a listing of all qualified political parties. The voter registration card shall include a listing of all qualified political parties. As part of that listing, the voter registration card shall also contain an option designated “No Party Preference.” This option shall be placed at the beginning of the listing of qualified political parties.

(c) No person shall be permitted to vote the ballot of any party or for any delegates to the convention of any party other than the party disclosed as preferred in his or her registration, except as provided by Section 2152 or unless he or she has declined to disclose a party preference and the party, by party rule duly noticed to the Secretary of State, authorizes a person who has declined to state a party affiliation to vote the party ballot or for delegates to the party convention.

(d) As of the effective date of the statute that added this subdivision, any voter who previously stated a political party affiliation when registering to vote shall be deemed to have disclosed that same party as his or her a political party preference unless the voter files a new affidavit of registration disclosing a different political party preference or no political party preference.

Any voter who previously declined to state a party affiliation shall be deemed to have chosen the “No Party Preference” option unless the voter files a new affidavit of registration disclosing a different political party preference.

SEC. 10. Section 2152 of the Elections Code is amended to read:

2152. Whenever any voter has declined to disclose or has changed his or her party preference prior to the close of registration for an election, he or she may either so disclose or have a change recorded by executing a new affidavit of registration and completing the prior registration portion of the affidavit.

SEC. 11. Section 2154 of the Elections Code is amended to read:

2154. In the event that the county elections official receives an affidavit of registration that does not include portions of the information for which space is provided, the county elections official voters shall apply the following rebuttable presumptions:

(a) If no middle name or initial is shown, it shall be presumed that none exists.

(b) If no party preference is shown, it shall be presumed that the affiant has chosen the “No Party Preference” designation.

(c) If no execution date is shown, it shall be presumed that the affidavit was executed on or before the 15th day prior to the election, provided that (1) the affidavit is received by the county elections official on or before the 15th day prior to the election, or (2) the affidavit is postmarked on or before the 15th day prior to the election and received by mail by the county elections official.

(d) If the affiant fails to identify his or her state of birth within the United States, it shall be presumed that the affiant was born in a state or territory of the United States if the birthplace of the affiant is shown as “United States,” “U.S.A.,” or other recognizable term designating the United States.

SEC. 12. Section 6000 of the Elections Code is amended and renumbered to read:

6000a. This chapter shall be known and may be cited as the “Alquist Open Presidential Primary Act.”

SEC. 13. Chapter 0.5 (commencing with Section 6000) is added to Part 1 of Division 6 of the Elections Code, to read:

CHAPTER 0.5. GENERAL PROVISIONS

6000. All references to a voter's or candidate's party "registration" or "affiliation" in this part shall refer to the party preference or lack of party preference disclosed by the voter or candidate in accordance with Sections 2151 and 2152 and subdivision (b) of Section 2154.

SEC. 14. The heading of Part 1 (commencing with Section 7000) of Division 7 of the Elections Code is amended to read:

PART 1. GENERAL PROVISIONS

SEC. 15. Chapter 1 (commencing with Section 7000) of Part 1 of Division 7 of the Elections Code is repealed.

SEC. 16. Section 7000 is added to the Elections Code, to read:

7000. All references to a voter's or candidate's party "registration" or "affiliation" in this division shall refer to the party preference or lack of party preference disclosed by the voter or candidate in accordance with Sections 2151 and 2152 and subdivision (b) of Section 2154.

SEC. 17. Section 8002.5 is added to the Elections Code, to read:

8002.5. (a) A candidate for a voter-nominated office may indicate his or her party preference, or lack of party preference, as disclosed upon the candidate's most recent statement of registration, upon his or her declaration of candidacy. If a candidate indicates his or her party preference on his or her declaration of candidacy, it shall appear on the primary and general election ballot in conjunction with his or her name. The candidate's designated party preference on the ballot shall not be changed between the primary and general election. A candidate for voter-nominated office may also choose not to have the party preference disclosed upon the candidate's most recent affidavit of registration indicated upon the ballot.

(b) Regardless of the disclosed party preference of the candidate or the voter, any qualified voter may vote for any candidate for a voter-nominated office if the voter is otherwise entitled to vote for candidates for the office to be filled. Nothing in Section 2151, 3006, 3007.5, 3205, or 3102 shall be construed to limit the ability of a voter to cast a primary election ballot for any candidate for a

voter-nominated office, regardless of the party preference, or lack of party preference, designated by the candidate for inclusion upon the ballot pursuant to this section, provided that the voter is otherwise qualified to cast a ballot for the office at issue.

(c) A candidate designating a party preference pursuant to subdivision (a) shall not be deemed to be the official nominee of the party designated as preferred by the candidate. A candidate's designation of party preference shall not be construed as an endorsement of that candidate by the party designated. The party preference designated by the candidate is shown for the information of the voters only and may in no way limit the options available to voters.

(d) All references to party preference or affiliation shall be omitted from all forms required to be filed by a voter-nominated candidate pursuant to this division in the same manner that such references are omitted from forms required to be filed by nonpartisan candidates pursuant to Section 8002, except that the declaration of candidacy required by Section 8040 shall include space for the candidate to list the party preference disclosed upon the candidate's most recent affidavit of registration, in accordance with subsection (a).

SEC. 18. Section 8005 is added to the Elections Code, to read:

8005. In addition to satisfying the requirements of Sections 9083.5, 9084.5, and 14105.1, the Secretary of State shall conduct public voter education campaigns, using existing resources, for the purpose of publicly disseminating information regarding the roles of the parties in primary elections for party-nominated offices, voter-nominated offices, and nonpartisan offices.

SEC. 19. Section 8025 of the Elections Code is amended to read:

8025. If only one candidate has declared a candidacy for a partisan nomination at the direct primary election for a party qualified to participate at that election, or for nomination at the direct primary for a voter-nominated office, and that candidate dies after the last day prescribed for the delivery of nomination documents to the elections official, as provided in Section 8020, but not less than 83 days before the election, any person qualified under the provisions of Section 8001 may circulate and deliver nomination documents for the office to the elections official up to 5 p.m. on the 74th day prior to the election. In that case, the

elections official shall, immediately after receipt of those nomination documents, certify and transmit them to the Secretary of State in the manner specified in this article.

SEC. 20. Section 8062 of the Elections Code is amended to read:

8062. (a) The number of registered voters required to sign a nomination paper for the respective offices are as follows:

(1) State office or United States Senate, not less than 65 nor more than 100.

(2) House of Representatives in Congress, State Senate or Assembly, Board of Equalization, or any office voted for in more than one county, and not statewide, not less than 40 nor more than 60.

(3) Candidacy in a single county or any political subdivision of a county, other than State Senate or Assembly, not less than 20 nor more than 40.

(4) With respect to a candidate for a political party committee, any political party has less than 50 voters in the state or in the county or district in which the election is to be held, one-tenth the number of voters of the party.

(5) When there are less than 150 voters in the county or district in which the election is to be held, not less than 10 nor more than 20.

(b) The provisions of this section are mandatory, not directory, and no nomination paper shall be deemed sufficient that does not comply with this section. However, this subdivision shall not be construed to prohibit withdrawal of signatures pursuant to Section 8067. This subdivision also shall not be construed to prohibit a court from validating a signature which was previously rejected upon showing of proof that the voter whose signature is in question is otherwise qualified to sign the nomination paper.

SEC. 21. Section 8068 of the Elections Code is amended to read:

8068. Signers shall be voters in the district or political subdivision in which the candidate is to be voted on. With respect to any candidacy for partisan office, signers shall be affiliated registered voters who disclosed a preference, pursuant to Section 2151, for the party, if any, in which the nomination is proposed. Signers need not be registered voters who disclosed a preference

for any party when signing candidacy papers for a candidate seeking nomination to a voter-nominated office.

SEC. 22. Section 8081 of the Elections Code is amended to read:

8081. Before any nomination document is filed in the office of the county elections official or forwarded for filing in the office of the Secretary of State, the county elections official shall verify the signatures and the political preferences, if required, of the signers on the nomination paper with the registration affidavits on file in the office of the county elections official. The county elections official shall mark “not sufficient” any signature that does not appear in the same handwriting as appears on the affidavit of registration in his or her office, or that is accompanied by a declaration of party preference that is not in accordance with the declaration of party preference in the affidavit of registration. The county elections official may cease to verify signatures once the minimum requisite number of signatures has been verified.

SEC. 23. Section 8121 of the Elections Code is amended to read:

8121. (a) Not less than five days before he or she transmits the certified list of candidates to the county elections officials, as provided in Section 8120, the Secretary of State shall notify each candidate for partisan office and voter-nominated office of the names, addresses, offices, occupations, and party preferences of all other persons who have filed for the same office.

(b) (1) Beginning not less than five days before he or she transmits the certified list of candidates to the county elections officials, as required by Section 8120, the Secretary of State shall post, in a conspicuous place on his or her Internet Web site, the party preference history of each candidate for voter-nominated office for the preceding 10 years. The candidates’ party preference history shall be continuously posted until such time as the official canvass is completed for the general or special election at which a candidate is elected to the voter-nominated office sought, except that, in the case of a candidate who participated in the primary election and who was not nominated to participate in the general election, the candidate’s party preference history need not continue to be posted following the completion of the official canvass for the primary election in question.

(2) For purposes of this subdivision, the phrase “party preference history” also refers to the candidate’s history of party registration during the 10 years preceding the effective date of this section.

(3) The Secretary of State shall also conspicuously post on the same web page as that containing the candidates’ party preference history the notice specified by of subdivision (b) of Section 9083.5.

SEC. 24. Section 8124 of the Elections Code is amended to read:

8124. The certified list of candidates sent to each county elections official by the Secretary of State shall show all of the following:

- (a) The name of each candidate.
- (b) The office for which each person is a candidate.
- (c) With respect to candidates for partisan offices, the party each person represents.
- (d) With respect to candidates for voter-nominated offices, the party preference designation specified in accordance with Section 8002.5.

SEC. 25. Section 8125 of the Elections Code is repealed.

SEC. 26. Section 8125 is added to the Elections Code, to read:

8125. The certified list of candidates sent to each county elections official by the Secretary of State shall be in a form prescribed by the Secretary of State.

SEC. 27. Section 8141.5 is added to the Elections Code, to read:

8141.5. Only the two candidates for a voter-nominated office who receive the highest and second-highest numbers of votes cast at the primary shall appear on the ballot as candidates for that office at the ensuing general election. More than one candidate with the same party preference designation may participate in the general election pursuant to this subdivision. Notwithstanding the designation made by the candidate pursuant to Section 8002.5, no candidate for a voter-nominated office shall be deemed to be the official nominee for that office of any political party, and no party is entitled to have a candidate with its party preference designation participate in the general election unless such candidate is one of the two candidates receiving the highest or second-highest numbers of votes cast at the primary election.

SEC. 28. Section 8142 of the Elections Code is amended to read:

8142. (a) In the case of a tie vote, nonpartisan candidates receiving the same number of votes shall be candidates at the ensuing general election if they qualify pursuant to Section 8141 whether or not there are more candidates at the general election than prescribed by this article. In no case shall the candidates determine the tie by lot.

(b) In the case of a tie vote among candidates at a primary election for a voter-nominated office, the following applies:

(1) All candidates receiving the highest number of votes cast for any candidate shall be candidates at the ensuing general election whether or not there are more candidates at the general election than prescribed by this article.

(2) Notwithstanding Section 8141.5, if a tie vote among candidates results in more than one primary candidate qualifying for the general election pursuant to subdivision (a), candidates receiving fewer votes shall not be candidates at the general election, even if they receive the second highest number of votes cast.

(3) If only one candidate receives the highest number of votes cast but there is a tie vote among two or more candidates receiving the second highest number of votes cast, each of those second-place candidates shall be a candidate at the ensuing general election along with the candidate receiving the highest number of votes cast, regardless of whether there are more candidates at the general election than prescribed by this article.

(4) In no case shall the candidates determine the tie by lot.

SEC. 29. Section 8148 of the Elections Code is amended to read:

8148. Not less than 68 days before the general election, the Secretary of State shall deliver to the appropriate county elections official a certificate showing:

(a) The name of every person entitled to receive votes within that county at the general election who has received the nomination as a candidate for public office pursuant to this chapter, and the designation of the public office for which he or she has been nominated.

(b) For each nominee for a partisan office, the name of the party that has nominated him or her.

(c) For each nominee for a voter-nominated office, the name of the party preference, or lack of party preference, as designated by the candidate in accordance with Section 8002.5.

SEC. 30. Section 8150 of the Elections Code is amended to read:

8150. The certificate of the Secretary of State showing candidates nominated or selected at a primary election, and justices of the Supreme Court and courts of appeal to appear on the general elections ballot, shall be in a form prescribed by the Secretary of State.

SEC. 31. Section 8300 of the Elections Code is amended to read:

8300. A candidate for any public office, including that of presidential elector, for which no nonpartisan candidate or candidate for voter-nominated office has been nominated or elected at any primary election, may be nominated subsequent to or in lieu of a primary election pursuant to this chapter.

SEC. 32. Section 8550 of the Elections Code is amended to read:

8550. At least 88 days prior to the election, each candidate shall leave with the officer with whom his or her nomination papers are required to be left, a declaration of candidacy which states all of the following:

- (a) The candidate's residence, with street and number, if any.
- (b) That the candidate is a voter in the precinct in which he or she resides.
- (c) The name of the office for which he or she is a candidate.
- (d) That the candidate will not withdraw as a candidate before the election.
- (e) That, if elected, the candidate will qualify for the office.

The name of a candidate shall not be placed on the ballot unless the declaration of candidacy provided for in this section has been properly filed.

SEC. 33. Section 8600 of the Elections Code is amended to read:

8600. Every person who desires to be a write-in candidate and have his or her name as written on the ballot of an election counted for a particular office shall file:

- (a) A statement of write-in candidacy that contains the following information:
 - (1) Candidate's name.
 - (2) Residence address.
 - (3) A declaration stating that he or she is a write-in candidate.

- (4) The title of the office for which he or she is running.
- (5) The party nomination which he or she seeks, if running in a partisan primary election.
- (6) The date of the election.
- (b) The requisite number of signatures on the nomination papers, if any, required pursuant to Sections 8062, 10220, 10510 or, in the case of a special district not subject to the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10), the number of signatures required by the principal act of the district.

SEC. 34. Section 8605 of the Elections Code is amended to read:

8605. No person whose name has been written in upon a ballot for an office at the direct primary may have his or her name placed upon the ballot as a candidate for that office for the ensuing general election unless one of the following is applicable:

(a) At that direct primary he or she received for a partisan office votes equal in number to 1 percent of all votes cast for the office at the last preceding general election at which the office was filled. In the case of an office that has not appeared on the ballot since its creation, the requisite number of votes shall equal 1 percent of the number of all votes cast for the office that had the least number of votes in the most recent general election in the jurisdiction in which the write-in candidate is seeking office.

(b) He or she is an independent nominee for a partisan office pursuant to Part 2 (commencing with Section 8300).

(c) At that direct primary he or she received for a voter-nominated office the highest number of votes cast for that office or the second highest number of votes cast for that office, except as provided by subdivision (b) of Section 8142 or Section 8807.

SEC. 35. Section 8606 is added to the Elections Code, to read:

8606. A person whose name has been written on the ballot as a write-in candidate at the general election for a voter-nominated office shall not be counted.

SEC. 36. Section 8802 of the Elections Code is repealed.

SEC. 37. Section 8805 of the Elections Code is amended to read:

8805. Whenever a candidate for nomination for a nonpartisan or voter-nominated office at a primary election dies on or before the day of the election, and a sufficient number of ballots are

marked as being voted for him or her to entitle him or her to nomination if he or she had lived until after the election, a vacancy exists on the general election ballot, which shall be filled in the manner provided in Section 8807 for filling a vacancy caused by the death of a candidate.

SEC. 38. Section 8806 of the Elections Code is repealed.

SEC. 39. Section 8807 of the Elections Code is amended to read:

8807. If the vacancy occurs among candidates chosen at the direct primary to go on the ballot for the succeeding general election for a nonpartisan or voter-nominated office, the name of that candidate receiving at the primary election the next highest number of votes shall go upon the ballot to fill the vacancy.

SEC. 40. Section 9083.5 is added to the Elections Code, to read:

9083.5. (a) If a candidate for nomination or election to a partisan office will appear on the ballot, the Secretary of State shall include in the state ballot pamphlet a written explanation of the electoral procedure for such offices, as follows:

PARTY-NOMINATED/PARTISAN OFFICES

Under the California Constitution, political parties may formally nominate candidates for party-nominated/partisan offices at the primary election. A candidate so nominated will then represent that party as its official candidate for the office in question at the ensuing general election and the ballot will reflect an official designation to that effect. The top vote-getter for each party at the primary election is entitled to participate in the general election. Parties also elect officers of official party committees at a partisan primary.

No voter may vote the ballot of any political party at any primary election unless he or she has disclosed a preference for that party upon registering to vote or unless he or she has declined to disclose a party preference and the political party, by party rule duly noticed to the Secretary of State, authorizes a person who has declined to disclose a party preference to vote the ballot of that political party.

(b) If any candidate for nomination or election to a voter-nominated office will appear on the ballot, the Secretary of State shall include in the state ballot pamphlet a written explanation of the electoral procedure for such offices, as follows:

VOTER-NOMINATED OFFICES

Under the California Constitution, political parties are not entitled to formally nominate candidates for voter-nominated offices at the primary election, and a candidate nominated for a voter-nominated office at the primary election is not the official nominee of any party for the office in question at the ensuing general election. A candidate for nomination or election to a voter-nominated office may, however, designate his or her party preference, or lack of party preference, and have that designation reflected on the primary and general election ballot, but the party designation so indicated is selected solely by the candidate and is shown for the information of the voters only. It does not constitute or imply an endorsement of the candidate by the party designated, and no candidate nominated by the qualified voters for any voter-nominated office shall be deemed to be the officially nominated candidate of any political party. The parties may have a list of candidates for voter-nominated offices, who have received the official endorsement of the party, printed in the sample ballot.

All voters, regardless of the party for which they have expressed a preference upon registering, or of their refusal to disclose a party preference, may vote for any candidate for a voter-nominated office, provided they meet the other qualifications required to vote for that office. The top two vote-getters at the primary election advance to the general election for the voter-nominated office, and both candidates may have specified the same party preference designation. No party is entitled to have a candidate with its party preference designation participate in the general election unless such candidate is one of the two highest vote-getters at the primary election.

(c) If any candidate for nomination or election to a nonpartisan office, other than judicial office, shall appear on the ballot, the Secretary of State shall include in the state ballot pamphlet a written explanation of the electoral procedure for such offices, as follows:

NONPARTISAN OFFICES

Under the California Constitution, political parties are not entitled to nominate candidates for nonpartisan offices at the primary election, and a candidate nominated for a nonpartisan office at the primary election is not the official nominee of any party for the office in question at the ensuing general election. A candidate for nomination or election to a nonpartisan office may NOT designate

his or her party preference, or lack of party preference, on the primary and general election ballot. The top two vote-getters at the primary election advance to the general election for the nonpartisan office.

(d) Posters or other printed materials containing the notices specified in subdivisions (a) to (c), inclusive, shall be included in the precinct supplies pursuant to Section 14105.

SEC. 41. Section 9084.5 is added to the Elections Code, to read:

9084.5. In addition to the materials specified in Section 9084, the ballot pamphlet shall contain a written explanation of the appropriate election procedures for party-nominated, voter-nominated, and nonpartisan offices as required by Section 9083.5.

SEC. 42. Section 10705 of the Elections Code is amended to read:

10705. (a) All candidates shall be listed on one ballot and, except as provided in subdivision (b), if any candidate receives a majority of all votes cast, he or she shall be declared elected, and no special general election shall be held.

(b) If only one candidate qualifies to have his or her name printed on the special general election ballot, that candidate shall be declared elected, and no special general election shall be held.

SEC. 43. Section 10706 of the Elections Code is amended to read:

10706. If no candidate receives a majority of votes cast, the names of the two candidates who receive the highest and second highest number of votes cast at the special primary election shall be placed on the special general election ballot.

SEC. 44. Section 12108 of the Elections Code is amended to read:

12108. In any case where this chapter requires the posting or distribution of a list of the names of precinct board members, or a portion of the list, the officers charged with the duty of posting shall ascertain the name of the political party, if any, for which each precinct board member has expressed a preference, as shown in the affidavit of registration of that person. When the list is posted or distributed, there shall be printed the name of the board member's party preference or an abbreviation of the name to the right of the name, or immediately below the name, of each precinct

board member. If a precinct board member has not expressed a preference for a political party, the words “ “No Party Preference” shall be printed in place of the party name.

SEC. 45. Section 13102 of the Elections Code is amended to read:

13102. (a) All voting shall be by ballot. There shall be provided, at each polling place, at each election at which public officers are to be voted for, but one form of ballot for all candidates for public office, except that, for partisan primary elections, one form of ballot shall be provided for each qualified political party as well as one form of nonpartisan ballot, in accordance with subdivision (b).

(b) At partisan primary elections, each voter not registered disclosing a preference with any one of the political parties participating in the election shall be furnished only a nonpartisan ballot, unless he or she requests a ballot of a political party and that political party, by party rule duly noticed to the Secretary of State, authorizes a person who has declined to disclose a party preference to vote the ballot of that political party. The nonpartisan ballot shall contain only the names of all candidates for nonpartisan offices, voter-nominated offices, and measures to be voted for at the primary election. Each voter registered as preferring a political party participating in the election shall be furnished only a ballot for which he or she disclosed a party preference in accordance with Section 2151 or 2152 and the nonpartisan ballot, both of which shall be printed together as one ballot in the form prescribed by Section 13207.

(c) A political party may adopt a party rule in accordance with subdivision (b) that authorizes a person who has declined to disclose a party preference to vote the ballot of that political party at the next ensuing partisan primary election. The political party shall notify the party chair immediately upon adoption of that party rule. The party chair shall provide written notice of the adoption of that rule to the Secretary of State not later than the 135th day prior to the partisan primary election at which the vote is authorized.

(d) The county elections official shall maintain a record of which political party's ballot was requested pursuant to subdivision (b), or whether a nonpartisan ballot was requested, by each person who declined to disclose a party preference. The record shall be made

available to any person or committee who is authorized to receive copies of the printed indexes of registration for primary and general elections pursuant to Section 2184. A record produced pursuant to this subdivision shall be made available in either a printed or electronic format, as requested by the authorized person or committee.

SEC. 46. Section 13105 of the Elections Code is amended to read:

13105. (a) In the case of candidates for a voter-nominated office in a primary election, a general election, or a special election to fill a vacancy in the office of United States Senator, Member of the United States House of Representatives, State Senator, or Member of the Assembly, immediately to the right of and on the same line as the name of the candidate, or immediately below the name if there is not sufficient space to the right of the name, there shall be identified in eight-point roman lowercase type the name of the political party designated by the candidate pursuant to Section 8002.5. The identification shall be in substantially the following form: “My party preference is the _____ Party.” If the candidate designates no political party, the phrase “No Party Preference” shall be printed instead of the party preference identification. If the candidate chooses not to have his or her party preference listed on the ballot, the space that would be filled with a party preference designation shall be left blank.

(b) In the case of candidates for President and Vice President, the name of the party shall appear to the right of and equidistant from the pair of names of these candidates.

(c) If for a general election any candidate for President of the United States or Vice President of the United States has received the nomination of any additional party or parties, the name(s) shall be printed to the right of the name of the candidate’s own party. Party names of a candidate shall be separated by commas. If a candidate has qualified for the ballot by virtue of an independent nomination, the word “Independent” shall be printed instead of the name of a political party in accordance with the above rules.

SEC. 47. Section 13109.5 is added to the Elections Code, to read:

13109.5. Notwithstanding anything in Section 13109 to the contrary, and to facilitate compliance with Section 13206, the elections official may list the offices specified in subdivision (h)

of Section 13109 directly after the offices specified in subdivisions (a) and (b) of Section 13109, when the offices specified in those subsections are on the ballot, or at the end of the ballot in elections at which the offices specified in subdivisions (a) and (b) of Section 13109 are not listed on the ballot.

SEC. 48. Section 13110 of the Elections Code is amended to read:

13110. The group of names of candidates for any partisan office, voter-nominated office, or nonpartisan office shall be the same on the ballots of all voters entitled to vote for candidates for that office, except that in partisan primary elections, the names of candidates for nomination to partisan office shall appear only on the ballots of the political party, the nomination of which they seek, and candidates for election to a political party committee shall appear only on the ballots of the political party for which the candidate seeks election.

SEC. 49. Section 13206 of the Elections Code is amended to read:

13206. (a) On the partisan ballot used in a direct primary election, immediately below the instructions to voters, there shall be a box not less than one-half inch high enclosed by a heavy-ruled line the same as the borderline. This box shall be as long as there are columns for the partisan ballot and shall be set directly above these columns. Within the box shall be printed in 24-point boldface gothic capital type the words “Party-Nominated Offices.” Immediately below that phrase within the same box shall be printed, in 8-point boldface gothic type, the following: “Only voters who disclosed a preference upon registering to vote for the same party as the candidate seeking the nomination of any party for the Presidency or election to a party committee may vote for that candidate at the primary election, unless the party has adopted a rule to permit non-party voters to vote in its primary elections.”

(b) The same style of box described in subdivision (a) shall also appear over the columns of the nonpartisan part of the ballot and within the box in the same style and point size of type shall be printed “Voter-Nominated and Nonpartisan Offices.” Immediately below that phrase within the same box shall be printed, in 8-point boldface gothic type, the following:

“All voters, regardless of the party preference they disclosed upon registration, or refusal to disclose a party preference, may vote for any candidate for a voter-nominated or nonpartisan office.

Voter-Nominated Offices. The party preference, if any, designated by a candidate for a voter-nominated office is selected by the candidate and is shown for the information of the voters only.

It does not constitute or imply an endorsement of the candidate by the party indicated, and no candidate nominated by the qualified voters for any voter-nominated office shall be deemed to be the officially nominated candidate of any political party.

“Nonpartisan Offices. A candidate for a nonpartisan office may not designate a party reference on the ballot.”

SEC. 50. Section 13207 of the Elections Code is amended to read:

13207. (a) There shall be printed on the ballot in parallel columns all of the following:

(1) The respective offices.

(2) The names of candidates with sufficient blank spaces to allow the voters to write in names not printed on the ballot.

(3) Whatever measures have been submitted to the voters.

(b) In the case of a ballot which is intended for use in a party primary and which carries both partisan offices, voter-nominated offices, and nonpartisan offices, a vertical solid black line shall divide the columns containing partisan offices, on the left, from the columns containing nonpartisan offices and voter-nominated offices, on the right.

(c) The standard width of columns containing partisan offices, nonpartisan offices, and voter-nominated offices, shall be three inches, but a elections official may vary the width of these columns up to 10 percent more or less than the three-inch standard. However, the column containing presidential and vice presidential candidates may be as wide as four inches.

(d) Any measures that are to be submitted to the voters shall be printed in one or more parallel columns to the right of the columns containing the names of candidates and shall be of sufficient width to contain the title and summary of each measure. To the right of each title and summary shall be printed, on separate lines, the words “Yes” and “No.”

SEC. 51. Section 13208 of the Elections Code is amended to read:

13208. (a) In the right-hand margin of each column light vertical lines shall be printed in such a way as to create a voting square after the name of each candidate for partisan office, voter-nominated office, nonpartisan office (except for justice of the Supreme Court or court of appeal), or for chairman of a group of candidates for delegate to a national convention who express no preference for a presidential candidate. In the case of Supreme Court or appellate justices and in the case of measures submitted to the voters, the lines shall be printed so as to create voting squares to the right of the words “Yes” and “No.” The voting squares shall be used by the voters to express their choices as provided for in the instruction to voters.

(b) The standard voting square shall be at least three-eighths of an inch square but may be up to one-half inch square. Voting squares for measures may be as tall as is required by the space occupied by the title and summary.

SEC. 52. Section 13230 of the Elections Code is amended to read:

13230. (a) If the county elections official determines that, due to the number of candidates and measures that must be printed on the ballot, the ballot will be larger than may be conveniently handled, the county elections official may provide that a nonpartisan ballot shall be given to each partisan voter, together with his or her partisan ballot, and that the material appearing under the heading “Voter Nominated and Nonpartisan Offices” on partisan ballots, as well as the heading itself, shall be omitted from the partisan ballots.

(b) If the county elections official so provides, the procedure prescribed for the handling and canvassing of ballots shall be modified to the extent necessary to permit the use of two ballots by partisan voters. The county elections official may, in this case, order the second ballot to be printed on paper of a different tint, and assign to those ballots numbers higher than those assigned to the ballots containing partisan offices.

(c) “Partisan voters,” for purposes of this section, includes both persons who have disclosed a party preference pursuant to Section 2151 or 2152 and persons who have declined to disclose a party preference, but who have chosen to vote the ballot of a political

party as authorized by that party's rules duly noticed to the Secretary of State.

SEC. 53. Section 13300 of the Elections Code is amended to read:

13300. (a) By at least 29 days before the primary, each county elections official shall prepare separate sample ballots for each political party and a separate sample nonpartisan ballot, placing thereon in each case in the order provided in Chapter 2 (commencing with Section 13100), and under the appropriate title of each office, the names of all candidates for whom nomination papers have been duly filed with him or her or have been certified to him or her by the Secretary of State to be voted for in his or her county at the primary election.

(b) The sample ballot shall be identical to the official ballots, except as otherwise provided by law. The sample ballots shall be printed on paper of a different texture from the paper to be used for the official ballot.

(c) One sample ballot of the party for which the voter has disclosed a preference, as evidenced by his or her registration, shall be mailed to each voter entitled to vote at the primary who registered at least 29 days prior to the election not more than 40 nor less than 10 days before the election. A nonpartisan sample ballot shall be so mailed to each voter who is not registered as preferring with any of the parties participating in the primary election, provided that on election day any person may, upon request, vote the ballot of a political party if authorized by the party's rules, duly noticed to the Secretary of State.

SEC. 54. Section 13302 of the Elections Code is amended to read:

13302. (a) The county elections official shall forthwith submit the sample ballot of each political party to the chairperson of the county central committee of that party, and shall mail a copy to each candidate for whom nomination papers have been filed in his or her office or whose name has been certified to him or her by the Secretary of State, to the post office address as given in the nomination paper or certification. The county elections official shall post a copy of each sample ballot in a conspicuous place in his or her office.

(b) In connection with any election at which a candidate for a voter-nominated office will appear on the ballot, any qualified

political party may submit to the county elections official a list of all candidates for voter-nominated office who will appear on any ballot in the county in question, and who have been endorsed by the party by whatever lawful mechanism the party adopts for endorsing candidates for voter-nominated office. The county elections official shall print any such list that is timely received in the sample ballot. The party chair shall provide a written copy of the list of candidates endorsed or nominated by the party not later than 83 days prior to the election at which the candidate for a voter-nominated office will appear on the ballot.

SEC. 55. Section 13305 of the Elections Code is amended to read:

13305. (a) In each county, the county central committee of each qualified political party may supply to its county elections official, not less than 83 days prior to the direct primary election, a party contributor envelope or a one-page letter, in which both sides may be utilized, to be included in the mailing of the sample ballot to each of the registered voters in the county who have disclosed a preference for that same party on the voter's affidavit of registration. In lieu of supplying the elections official with a sufficient number of copies of the one-page letter, a county central committee may supply the elections official, not less than 83 days before the direct primary election, with the text of the letter and request the elections official to print, or cause to be printed, a sufficient number of copies of the letter to accommodate the mailing. The elections official shall notify the respective county committee of, and the committee shall reimburse the county for, any actual costs incurred by the inclusion or printing, or both. The elections official may, prior to acting pursuant to this subdivision, require the county committee to post a bond to ensure the reimbursement.

(b) Each envelope or letter shall contain a space for the name and address of the contributor, and shall contain language which informs the contributor of the manner in which the money received shall be spent. The language on the envelope or letter shall not contain words critical of any other political party.

(c) All funds received by the return of the party contributor envelopes or in response to the letters shall be kept separate from all other funds and shall be kept in a fund (account) to be established in each county. Any funds which are prohibited under

federal law from being used for candidates for federal office shall be further segregated and any portion allocated to candidates shall be disbursed only to candidates for state office.

SEC. 56. Section 14105.1 is added to the Elections Code, to read:

14105.1. In addition to the materials identified in Section 14105, the elections official shall furnish to the precinct officers printed copies of the notices specified in Section 9083.5, as supplied by the Secretary of State. The notices shall be conspicuously posted both inside and outside every polling place.

SEC. 57. Section 15451 of the Elections Code is amended to read:

15451. The nominees for a voter-nominated office shall be determined in accordance with Section 8141.5 and subdivision (b) of Section 8142.

SEC. 58. Section 15452 of the Elections Code is amended to read:

15452. The person who receives a plurality of the votes cast for any office is elected or nominated to that office in any election, except:

(a) An election for which different provision is made by any city or county charter.

(b) A municipal election for which different provision is made by the laws under which the city is organized.

(c) The election of local officials in primary elections as specified in Article 8 (commencing with Section 8140) of Part 1 of Division 8.

(d) The nomination of candidates for voter-nominated office at the primary election to participate in the general election for that office as specified in Article 8 (commencing with Section 8140) of Part 1 of Division 8.

SEC. 59. Section 15670 of the Elections Code is amended to read:

15670. This article applies only to:

(a) Candidates for delegates to a national convention for the nomination of party candidates for President and Vice President of the United States.

(b) Candidates for nomination at the direct primary to offices other than nonpartisan offices or voter-nominated offices.

SEC. 60. Section 15671 of the Elections Code is amended to read:

15671. In case of a tie vote for member of a county central committee, where the office is to be voted for wholly within one county, the election board shall forthwith summon the candidates who have received tie votes to appear before it, at a time and place to be designated by the board, and the board shall at that time and place determine the tie by lot.

SEC. 61. Section 19300 of the Elections Code is amended to read:

19300. A voting machine shall, except at a direct primary election or any election at which a candidate for voter-nominated office is to appear on the ballot, permit the voter to vote for all the candidates of one party or in part for the candidates of one party and in part for the candidates of one or more other parties.

SEC. 62. Section 19301 of the Elections Code is amended to read:

19301. (a) A voting machine shall provide in the general election for grouping under the name of the office to be voted on, all the candidates for the office with the designation of the parties, if any, by which they were respectively nominated or which they designated pursuant to Section 8002.5.

(b) With respect to party-nominated offices, the designation may be by usual or reasonable abbreviation of party names. With respect to voter-nominated offices, the voting machine shall conform to the format specified in subdivision (b) of Section 13105.

SEC. 63. Section 88001 of the Government Code is amended to read:

88001. The ballot pamphlet shall contain all of the following:

- (a) A complete copy of each state measure.
- (b) A copy of the specific constitutional or statutory provision, if any, that would be repealed or revised by each state measure.
- (c) A copy of the arguments and rebuttals for and against each state measure.
- (d) A copy of the analysis of each state measure.
- (e) Tables of contents, indexes, art work, graphics and other materials that the Secretary of State determines will make the ballot pamphlet easier to understand or more useful for the average voter.

(f) A notice, conspicuously printed on the cover of the ballot pamphlet, indicating that additional copies of the ballot pamphlet will be mailed by the county elections official upon request.

(g) A written explanation of the judicial retention procedure as required by Section 9083 of the Elections Code.

(h) The Voter Bill of Rights pursuant to Section 2300 of the Elections Code.

(i) If the ballot contains an election for the office of United States Senator, information on candidates for United States Senator. A candidate for United States Senator may purchase the space to place a statement in the state ballot pamphlet that does not exceed 250 words. The statement may not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with timeframes and procedures set forth by the Secretary of State for the preparation of the state ballot pamphlet.

(j) If the ballot contains a question as to the confirmation or retention of a justice of the Supreme Court, information on justices of the Supreme Court who are subject to confirmation or retention.

(k) If the ballot contains an election for the offices of President and Vice President of the United States, a notice that refers voters to the Secretary of State's Internet Web site for information about candidates for the offices of President and Vice President of the United States.

(l) A written explanation of the appropriate election procedures for party-nominated, voter-nominated, and nonpartisan offices as required by Section 9083.5 of the Elections Code.

SEC. 64. This measure shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. This measure shall be broadly construed in order to achieve the purposes of the measure above. It is the intent of the Legislature that the provisions of this measure be interpreted or implemented in a manner that facilitates the purposes set forth in this measure.

SEC. 65. If any provision of this measure, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this measure are severable. The Legislature declares that this measure, and each section, subdivision, sentence, clause, phrase, part, or portion thereof, would have been passed irrespective of the fact that any one or more sections, subdivisions, sentences, clauses, phrases, parts, or

portions is found to be invalid. If any provision of this measure is held invalid as applied to any person or circumstance, such invalidity does not affect any application of this measure that can be given effect without the invalid application.

SEC. 66. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 67. This measure shall become operative only if SCA 4 is approved by the voters.

Approved _____, 2009

Governor